

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

**JANE W, in her individual capacity, and in her  
capacity as the personal representative of the  
estates of her relatives, James W, Julie W and Jen  
W,**

**JOHN X, in his individual capacity, and in his  
capacity as the personal representative of the  
estates of his relatives, Jane X, Julie X, James X  
and Joseph X,**

**JOHN Y, in his individual capacity,**

**and**

**JOHN Z, in his individual capacity**

**Plaintiffs,**

**v.**

**MOSES W. THOMAS,**

**Defendant.**

Case No. 2:18-CV-00569-PBT

**PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR LEAVE TO PROCEED ANONYMOUSLY**

In opposing the Motion of Plaintiffs Jane W, John X, John Y, and John Z (“**Plaintiffs**”) for Leave to Proceed Anonymously, Defendant Moses W. Thomas (“**Defendant**”) confuses two different issues: the legal standard governing a motion for leave to proceed anonymously, which balances Plaintiffs’ fear of harm with the public’s interest in information, and Defendant’s right to take discovery at the appropriate time. Defendant’s opposition consists primarily of irrelevant and misplaced arguments about the latter, which is not implicated by Plaintiffs’ motion.

The Third Circuit has expressly sanctioned anonymity where, as here, the plaintiffs “ha[ve] a reasonable fear of severe harm that outweighs the public’s interest in open litigation.” *Doe v. Megless*, 654 F.3d 404, 408 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1543 (2012). On a motion for leave to proceed anonymously, the court weighs two interests: the public’s interest in information versus a plaintiff’s fear of harm. Plaintiffs’ motion does not implicate *Defendant’s* claimed need for information, which, as Defendant’s own papers recognize, will be determined during the normal course of discovery through negotiation or adjudication, including by the use of protective orders as appropriate. *See* Opp. at 5. And Plaintiffs’ anonymity in no way impedes Defendant’s ability to defend himself on the pleadings: he has already filed a motion to dismiss, identifying no issues on which he needs information about Plaintiffs’ identities.

Throughout his opposition, Defendant conflates his interests with those of the public, arguing, for example, that “the public is interested in the identities of the Plaintiffs to test the veracity of their claims.” Opp. at 8. But it is not the public’s role to test Plaintiffs’ claims. The public’s interest is in being able to follow court proceedings. The Third Circuit has developed a multi-factor test to balance that interest with a plaintiff’s fear of harm; as outlined in the memorandum of law supporting Plaintiffs’ motion, every factor weighs in favor of granting Plaintiffs’ motion for leave to proceed anonymously.

Defendant’s remaining arguments do nothing to rebut that. Contrary to Defendant’s contention, Plaintiffs need not name a specific “individual who poses a threat of harm to them.” Opp. at 7. *See, e.g., Doe v. Provident Life and Acc. Ins. Co.*, 176 F.R.D. 464, 467 (E.D. Pa. 1997) (granting motion to proceed anonymously where

plaintiff feared being “stigmatized in the community”); *Doe v. Unum Life Ins. Co. of America*, Civil Action No. 13-6900, 2014 WL 1599919, at \*2 (E.D. Pa. Apr. 18, 2014) (same). And as the declarations submitted in support of Plaintiffs’ motion show, the facts that the Massacre occurred some time ago, that Defendant lives in the United States, and that Liberia has held peaceful elections since the Massacre, *see* Opp. at 7, fail to undermine Plaintiffs’ well-supported fear of harm should their names be disclosed.

For the reasons set forth above and in Plaintiffs’ initial moving papers, Plaintiffs respectfully request that the Court enter an order granting Plaintiffs leave to proceed anonymously.

Dated: June 8, 2018

Respectfully submitted,

/s/ Nushin Sarkarati

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